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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,223	10/15/2003	Peter J. Kachler	110.0010001	2931
7590 E. J. Brooks & Associates, PLLC Suite 500 1221 Nicollet Avenue Minneapolis, MN 55403			EXAMINER ALTSCHUL, AMBER L	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 07/18/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,223

Applicant(s)

KAEHLER ET AL.

Examiner

AMBER L. ALTSCHUL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 19-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 19-30, and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date October 15, 2003, March 29, 2006, and April 2, 2007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on April 17, 2008. Claims 1-2, 5-6, 11-12, 19-24, 26, 29-30, and 32 are amended, claims 13-18, 31, and 33-34 are canceled, claims 1-12, 19-30, and 32 remain pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12, 19-30, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent Application Publication Number US 2002/0049617, Lencki, et al., hereinafter Lencki.

4. (Currently Amended) As per claim 1, Lencki teaches a system for benefits management, comprising:

a server including an application interface and access to a data store having one or more client files, wherein a client file ~~ean~~ includes a definable set of business rule[s] instructions executed by a processor to for managing and administering manage and administer benefits and ~~ean~~ includes fund use rule[s] instructions executed by a processor to for accessing and applying access and apply funds to payment of claims from one or more a plurality of accounts, (page 1, para. 11, page 9, para. 146 and page 22, para. 258); and

a program operable on the server to apply the definable set of business rules in connection with processing a claim, wherein the instructions are executed by the processor to allow a plan sponsor to define a first defined set of the fund use rules and a plan member to define a second defined set of the fund use rules in order to define payment of at least a portion of a claim from between at least two different employee benefit accounts, dependent upon authority being granted by the plan sponsor, (page 1, para. 11, page 9, para. 146 and page 22, para. 258).

5. (Currently Amended) As per claim 2, Lencki teaches the system of claim 1 as described above. Lencki further teaches wherein the ~~one or more~~ the at least two different employee benefit accounts are selected from the group of:

- a health reimbursement arrangement (HRA) account;

- a flex spending account (FSA), (page 8, para. 131);

- a vacation account;

- a fitness club account, (page 8, para. 133);

- a retiree health benefits account, (pages 3-4, para. 80 and page 7, para. 119); and

- a salon account.

6. (Original) Regarding claim 3, Lencki teaches the system of claim 1 as described above. Lencki further teaches wherein the definable set of business rules are definable by a plan sponsor of a health insurance plan, (page 27, para. 313 and page 28, para. 315).

7. (Original) Regarding claim 4, Lencki teaches the system of claim 1 as described above. Lencki further teaches wherein the one or more client files include plan sponsor files associated with a health care insurance plan, (page 28, paragraphs 314 and 316).

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8. (Currently Amended) Regarding claim 5, Lencki teaches the system of claims 1 and 4 as described above. Lencki further teaches wherein the program can track adjudicated claims submitted by ~~[[a]] the plan member and can apply~~ applies the definable set of business rules to manage available funds in a flexible spending account (FSA) and a health reimbursement arrangement (HRA) account secondary to application of a plan carrier's business rules for the health care insurance plan, (page 8, para. 131, page 9, para. 146 and page 22, para. 258).

9. (Currently Amended) Regarding claim 6, Lencki teaches the system of claim 1 as described above. Lencki further teaches wherein the definable set of business rules include: a selection of which funds between a flexible spending account (FSA) and a health reimbursement arrangement (HRA) are to be applied first to an adjudicated claim determined among selected categories within particular classes of services, (page 8, para. 131, page 9, para. 146 and page 22, para. 258); and a selection of a payment relationship between ~~[[a]] the plan sponsor and [[a]] the plan member~~ among selected categories within particular classes of services, (page 3, para. 78, page 4, para. 81 and page 28, paragraphs 314 and 316).

10. (Original) Regarding claim 7, Lencki teaches the system of claims 1 and 6 as described above. Lencki further teaches wherein the selected categories include categories, (page 1, para. 9), selected from the group of:

an insured category, (page 1, para. 9);

a co-pay category, (page 27, para. 312);

a deductible category, (page 15, para. 190);

a co-insurance category;

and an ineligible category, (page 11, para. 157).

11. (Original) Regarding claim 8, Lencki teaches the system of claims 1 and 6 as described above. Lencki further teaches wherein particular classes of services include in-network classes and out-of-network classes for services selected from the group of:

a preventive care service, (page 8, para. 139);

an office visit, (page 9, para. 143);

a hospital service, (page 15, para.190);

an urgent care center service;

a prescription service, (page 15, para. 190);

a dental service, (page 15, para. 190);

a vision service;

a chemical dependency service;

and an emergency room service.

12. (Original) Regarding claim 9, Lencki teaches the system of claims 1 and 6 as described above. Lencki further teaches wherein the selection of a payment relationship includes a plan sponsor rule selection from among the group of:

a percentage payment amount, (page 1, para. 11 and page 13, para.174); and

a fixed payment amount among selected categories within particular classes of services, (page 1, para. 11, and page 22, para. 258).

13. (Original) Regarding claim 10, Lencki teaches the system of claims 1 and 6 as described above. Lencki further teaches wherein the selection of which funds between the FSA and the

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HRA arc to be applied includes a selection of a plan sponsor role and a member rule, (page 8, para. 131, page 9, para. 146, and page 22, para. 258).

14. (Currently Amended) Regarding claim 11, Lencki teaches the system of claim 1 as described above. Lencki further teaches wherein the one or more client files include one or more member files accessible from a remote device by one or more entities having authorized access rights, (page 11, para. 159), the one or more entities selected from the group of:

[[a]] the plan sponsor, (page 27, para. 313 and page 28, para. 315),

[[a]] the plan member, (page 5, para. 103);

and a third party administrator.

15. (Currently Amended) Regarding claim 12, Lencki teaches the system of claim 1 as described above. Lencki further teaches wherein each client file is associated with a plan sponsor and wherein the plan sponsor can access its associated client file from a remote device to select among the definable set of business rules, (page 27, para. 313, and page 28, paragraphs 314-316).

16. (Currently Amended) Regarding claim 19, Lencki teaches a computer readable medium including a program having instructions executable by a processor to perform a method, comprising:

defining a number of plan sponsor rules to be applied secondary to the application of a set of business rules defined in a health insurance plan by a plan carrier, (page 9, para. 146 and page 22, para. 258); and

defining a number of member rules to be applied in conjunction with the number of plan sponsor rules, wherein the instructions are executed by the processor to allow a plan sponsor to define the

number of plan sponsor rules and a plan member to define the number of member rules in order to define payment of at least a portion of a claim from between at least two different employee benefit accounts (page 9, para. 146 and page 22, para. 258).

17. (Currently Amended) Regarding claim 20, Lencki teaches the medium of claim 19 as described above. Lencki teaches wherein defining [[a]] the number of plan sponsor rules includes selecting a payment relationship between [[a]] the plan sponsor and [[a]] the plan member for handling a deductible payment associated with a particular claim type under the health insurance plan, (page 7, para. 118).

18. (Currently Amended) Regarding claim 21, Lencki teaches the medium of claim 19 as described above. Lencki teaches wherein defining [[a]] the number of plan sponsor rules includes selecting a payment relationship between [[a]] the plan sponsor and [[a]] the plan member for handling a co-payment associated with a particular claim type under the health insurance plan, (Fig. 22C and page 7, para. 122).

19. (Currently Amended) Regarding claim 22, Lencki teaches the medium of claim 19 as described above. Lencki further teaches wherein defining [[a]] the number of plan sponsor rules includes selecting a payment relationship between [[a]] the plan sponsor and [[a]] the plan member for handling a coinsurance payment associated with a particular claim type under the health insurance plan, (page 15, para. 189).

20. (Currently Amended) Regarding claim 23, Lencki teaches the medium of claim 19 as described above. Lencki further teaches wherein defining [[a]] the number of plan sponsor rules includes [[a]] the plan sponsor selecting a hierarchy among a number of plan member health

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benefit accounts for application of funds to payment of a particular claim type under the health insurance plan, (page 4, para. 83 and page 15, para. 189).

21. (Currently Amended) Regarding claim 24, Lencki teaches the medium of claims 19 and 23 as described above. Lencki further teaches wherein defining ~~[[a]] the~~ number of member rules includes ~~[[a]] the~~ plan member selecting a hierarchy among a number of plan member health benefit accounts for application of funds to payment of a particular claim type under the health insurance plan secondary to implementation of the number of plan sponsor rules, (page 4, para. 83, page 9, para. 146, page 15, para. 189, and page 22, para. 258).

22. (Original) Regarding claim 25, Lencki teaches the medium of claim 19 as described above. Lencki further teaches wherein the method further includes tracking usage and available balances in a number of plan member health benefit accounts according to the number of plan sponsor rules and member rules, (page 4, paragraphs 83 and 85, page 9, para. 146, page 15, para. 189, and page 22, para. 258).

23. (Currently Amended) Regarding claim 26, Lencki teaches a method for providing benefits, comprising:

selecting a health benefit plan offered by a plan carrier; ~~and~~

further defining rules in addition to rules defined for the health benefit plan by the plan carrier in order to manage fund allocation from a ~~number~~ plurality of plan member benefit accounts, including a health reimbursement account, according to different categories of services, (page 4, paragraphs 83 and 85); and

allowing a plan sponsor to define a first defined set of fund use rules and a plan member to define a second defined set of fund use rules in order to define payment of at least a portion of

a claim from between at least two different employee benefit accounts, dependent upon authority being granted by the plan sponsor, (page 9, para. 146 and page 22, para. 258).

24. (Original) Regarding claim 27, Lencki teaches the method of claim 26 as described above. Lencki further teaches wherein further defining rules includes defining a number of plan sponsor rules associated with different categories of services, (page 8, para. 131, page 9, para. 146, and page 22, para. 258).

25. (Original) Regarding claim 28, Lencki teaches the method of claim 26 as described above. Lencki further teaches wherein further defining rules includes defining a number of member rules associated with different categories of services, (page 8, para. 131, page 9, para. 146, and page 22, para. 258).

26. (Currently Amended) Regarding claim 29, Lencki teaches the method of claim 26 as described above. Lencki further teaches further defining rules includes: selecting which funds between funds in multiple health benefit accounts are to be applied first to a post-adjudicated claim under the health care plan according to various claim type categories, (page 8, para. 131, page 9, para. 146, and page 22, para. 258); and selecting a payment relationship between [[a]] the plan sponsor and [[a]] the plan member according to various claim type categories associated with different types of services, (page 3, para. 78, page 4, para. 81, and page 28, paragraphs 314-316).

27. (Currently Amended) Regarding claim 30, Lencki teaches the method of claims 26 and 29 as described above. Lencki further teaches wherein selecting [[a]] the payment relationship includes defining a plan sponsor percentage payment amount for a claim type category

associated with different types of services, (page 1, para. 9), and wherein the claim type is selected from the group including:

- an insured category, (page 1, para. 9);
- a co-pay category, (page 27, para. 312);
- a deductible category, (page 15, para. 190);
- and a co-insurance category.

28. (Currently Amended) Regarding claim 32, Lencki teaches the method of claims 26 and 29 as described above. Lencki further teaches wherein selecting [[a]] the payment relationship includes defining a plan sponsor fixed payment amount for a claim type category associated with different types of services, (page 1, para. 9), and wherein the claim type is selected from the group including:

- an insured category, (page 1, para. 9);
- a co-pay category, (page 27, para. 312);
- a deductible category, (page 15, para. 190); and
- a co-insurance category.

Response to Arguments

29. Applicant's arguments filed April 17, 2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed April 17, 2008.

(A) At pages 10-12 of the April 17, 2008 response, Applicant argues that Lencki does not teach "instructions executed by a processor to access and apply funds to payment of claims from

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a plurality of accounts". However, this was not claimed in Applicant's initial application. These features were amended as part of claims 1, 19 and 26.

(A) In response, the Examiner respectfully disagrees. It is readily apparent that Lencki discloses instructions executed by a processor to access and apply funds to payment of claims from a plurality of accounts, (page 1, para. 11, page 9, para. 146 and page 22, para. 258).

Thus, the Examiner respectfully contends that Lencki's system is an art recognized equivalent to Applicant's instructions executed by a processor to access and apply funds to payment of claims from a plurality of accounts.

30. Applicant's arguments with respect to claims 1-12, 19-30, and 32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches Apparatus and system for determining insurance benefit amounts based on groupings of long-term care patients with common characteristics (US 6014632 A), System and system for processing and recording the transactions in a medical savings fund account (US 6044352 A), Insurance business system (US 20020069090 A1), System and method for computing a financial projection of a prefunding program for other postretirement employee benefits under FASB statement 106 (US 5802500 A), System for exchanging health care insurance information (US 5890129 A), Automated system and method for providing real-time verification of health insurance eligibility (US 5832447 A).

32. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber L. Altschul whose telephone number is 571-270-1362. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) method. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR method, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR method, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information method, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. L. A./

Examiner, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626